

REMARKS/ARGUMENTS

This Amendment is in response to the final rejection mailed on November 24, 2004, a response to which was due on February 24 2005. In this regard, Applicant submits herewith a three-month extension petition to reset the deadline for responding to the Official Action to and including May 24, 2005. Applicant also submits herewith a Notice of Appeal with respect to the Examiner's final rejection of claims 1-4, 6-9, 18-21, 22 and 24-30. Reconsideration of the Examiner's rejection is respectfully requested.

The Examiner has rejected claims 1-4, 6-9, 18 and 30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner makes reference to the use of the terms "outside diameter" and "inside diameter" with respect to claims 1, 8 and 18, and the term "a predetermined thickness therebetween" as set forth in independent claim 3.

Applicant has amended the claims to clarify that the inside and outside diameters are defined by inner and outer surfaces of the inserts. As a result, the inner and outer surfaces define therebetween a thickness of the insert. Applicant's amendment to claim 3 clarifies that the recited thickness is the same thickness as recited in independent claim 1. Accordingly, the Examiner's rejection of Applicant's claims under 35 U.S.C. § 112, second paragraph, is considered traverse and should therefore be withdrawn.

The present application is directed to a pole mounting bracket having replaceable inserts to accommodate poles of different cross-sectional size. The application includes claims 1 through 11, and 18 through 30, of which claims 1, 8, 18, 21,

24, 25, 27 and 29 have been presented in independent form. Initially, claims 5, 10, 11, 19, 20 and 23 have been withdrawn from further consideration as being directed to a non-elected species. Upon allowance of a generic or linking claim, these claims will be rejoined in the application. The Examiner has maintained the rejection of the independent claims as being anticipated under 35 U.S.C. § 102 (b) by either *Colley*, United States Patent No. 5,769,556 or *Morehouse*, United States Patent No. 2,355,742.

In the Official Action the Examiner states that Applicant's prior arguments that the inserts of *Colley* and *Morehouse* are not interchangeable is considered irrelevant since such language is not found in any of the claims. Although this is literally correct, the language of the claims clearly evoke the limitation that the inserts are interchangeable. Notwithstanding the foregoing, Applicant has amended each of the independent claims to recite that the inserts are interchangeable, a feature not disclosed by either *Colley* or *Morehouse*.

With respect to *Colley*, the two inserts, although having different thicknesses, are not interchangeable with each other as they have different sizes for use in different sized openings. This is readily apparent from the illustration used by the Examiner. As to *Morehouse*, the two disclosed inserts have the same inner and outer diameters and corresponding thicknesses. In this regard, the openings 3 in *Morehouse* are adapted to accommodate the same size conduits 4. There is no disclosure of the ability to provide different inserts with different thicknesses to accommodate conduits having a different outer diameter. Accordingly, there is no disclosure in either *Colley* or *Morehouse* of a pair of interchangeable inserts as defined by the independent claims. The Examiner's rejection is

considered traverse and should therefore be withdrawn.

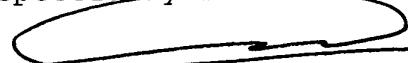
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding final rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: May 24, 2005

Respectfully submitted,

By 

Stephen B. Goldman  
Registration No.: 28,512  
LERNER, DAVID, LITTBENBERG,  
KRMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

567712\_1.DOC